

EXHIBIT A

Case No. 21-CV-0817-TSZ

(Exhibit A to Mann Declaration)

Submission Date: 2/10/2022

1. JAMS Local Center

JAMS resolution center Arbitration Rules
Seattle, Washington JAMS Comprehensive Arbitration Rules and Procedures

Filing & submission fees

Standard Arbitration

- ⦿ If the parties' agreement calls for Respondent to pay the full filing fee, no payment is required at this time.

Claimant(s)

1. Bungie, Inc.
550 106th Avenue NE, Suite 207
98004 Bellevue WA

Claimant Representatives

A. William Rava
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B. Christian Marcelo
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C. Jacob Dini
Perkins Coie LLP
54115WA
1201 Third Ave Suite 4900
98101 Seattle WA
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jdini@perkinscoie.com

Respondent(s)

1. David Schaefer
5973 Jacques Drive
95123 San Jose CA

2. Aimjunkies.com
8837 W. Vernon
85037 Phoenix

3. Phoenix Digital Group LLC
8837 W. Vernon
85037 Phoenix

4. Jeffrey Conway
8837 W. Vernon
85037 Phoenix

5. Jordan Green
2839 SW Dickinson Street
97219 Portland

6. James May
2217 Polo Park Drive
45439 Dayton

Respondent Representative(s)

A. Philip Mann
Mann Law Group PLLC
28860WA
403 Madison Ave N. Ste. 240
98110 Bainbridge WA
206-436-0900
phil@mannlawgroup.com

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4. Nature of Dispute

See attached Demand for Arbitration and incorporated Complaint.

- [2022-2-10](#) Claims/Responses/Counterclaims
-

5. Agreement

See Bungie's Limited Software License Agreement at pages 8-9.

6. Consumer & Employment

- ☒ NO, this is not a CONSUMER ARBITRATION
-

7. Submission information

Respondent Name Christian
Address 1201 Third Avenue, Suite 4900
Zip Code 98101
City Seattle
State WA
Phone 206-359-3315
E-mail cmarcelo@perkinscoie.com
☒ I Agree to the Terms of Service

IN ARBITRATION PROCEEDINGS BEFORE
JAMS

BUNGIE, INC., a Delaware corporation,

No. _____

Claimant,

DEMAND FOR ARBITRATION

v.

AIMJUNKIES.COM, a business of
unknown classification; PHOENIX
DIGITAL GROUP LLC, an Arizona
limited liability company; JEFFREY
CONWAY, an individual; DAVID
SCHAEFER, an individual; JORDAN
GREEN, an individual; and JAMES MAY,
an individual,

Respondents.

PRELIMINARY STATEMENT

On June 15, 2021, Claimant Bungie, Inc. (“Claimant” or “Bungie”) filed a complaint in the District Court for the Western District of Washington—*Bungie, Inc. v. Aimjunkies.com, et al.*, No. 2:21-cv-0811 TSZ—against Respondents asserting claims for copyright infringement (17 U.S.C. § 501, et seq.) (Count One), trademark infringement (15 U.S.C. § 1114) (Count Two), false designations of origin (15 U.S.C. § 1125(a)) (Count Three), circumvention of technological measures (17 U.S.C. § 1201(a)) (Count Four), trafficking in circumvention technology (17 U.S.C. §§ 1201(a)-(b)) (Count Five), breach of contract (Count Six), tortious interference (Count

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Seven), violation of the Washington Consumer Protection Act (RCW 1986.020) (Count Eight), and unjust enrichment (Count Nine). Bungie's Complaint is attached as **Exhibit A**.

On January 10, 2022, Respondents filed a Motion to Dismiss and/or Refer to Mandatory Arbitration (the "Motion"). In its Motion, Respondents asserted that all claims except Count One (copyright infringement) and Count Two (false designations of origin) were subject to the mandatory arbitration clause provided in Bungie's Limited Software License Agreement ("LSLA"). A copy of Bungie's LSLA is attached as **Exhibit B**.

PARTIES

1. Bungie is a Delaware corporation with its principal place of business at 550 106th Avenue NE, Suite 207, Bellevue, Washington, 98004-5088.

2. Respondent Aimjunkies.com is a business of unknown classification that advertises, markets and sells Defendants' cheats.

3. Respondent Phoenix Digital Group LLC ("Phoenix Digital") is an Arizona Limited Liability Company with a mailing address of 8837 W. Vernon, Phoenix, Arizona, 85037.

4. Respondent Jeffrey Conway is a member of Phoenix Digital with a mailing address of 8837 W. Vernon, Phoenix, Arizona, 85037.

5. Respondent David Schaefer is a member of Phoenix Digital with a mailing address of 5973 Jacques Drive, San Jose, California, 95123.

6. Respondent Jordan Green is a member of Phoenix Digital with a mailing address of 2839 SW Dickinson Street, Portland, Oregon, 97219.

7. Respondent James May is an individual residing at 2217 Polo Park Drive, Dayton, Ohio, 45439.

JURISDICTION AND VENUE

8. JAMS has jurisdiction over this action because the claims alleged herein are subject to the arbitration agreement contained in Bungie's LSLA which states that, with a

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handful of exceptions, “all claims arising out of or relating to [the LSLA] (including its interpretation, formation, performance and breach), the parties’ relationship with each other and/or your use of [Destiny 2] shall be finally settled by binding arbitration administered by JAMS[.]” LSLA at 8. The claims asserted herein arise out of or relate to the LSLA, the parties’ relationship with each other and/or Respondents’ use of Destiny 2. Moreover, on information and belief, Respondents agreed to the terms of the LSLA by downloading, installing, and/or using Destiny 2 to, for commercial gain, develop, advertise, use, and distribute a software cheat that purports to give players an unfair advantage in Destiny 2.

9. The LSLA further provides that the JAMS Comprehensive Arbitration Rules apply to this action. *Id.*

10. The location of the arbitration hearing being set in Phoenix, Arizona is proper pursuant to the LSLA which provides that the arbitration may take place “at any reasonable location within the United States convenient for you.” *Id.* at 9. Respondent Phoenix Digital Group LLC is an Arizona Limited Liability Company located in Phoenix, Arizona, 85037. Respondents Conway, Schaefer, and Green are members of Respondent Phoenix Digital Group, and Respondent Conway resides in Phoenix, Arizona. Thus, Phoenix is a “reasonable location.”

FACTS, BACKGROUND, AND CAUSES OF ACTION

11. Pursuant to JAMS Rule 9(b), Claimant incorporates its Complaint from the matter *Bungie, Inc. v. Aimjunkies.com, et al.*, No. 2:21-cv-0811 TSZ. Through incorporating the Complaint, Claimant asserts all claims sought within the Complaint, except for Count One (copyright infringement), Count Two (trademark infringement), and Count Three (false designation of origin), which, as it will argue in opposition to the Motion, Claimant believes should not be subject to mandatory arbitration under the LSLA.

PRAYER FOR RELIEF

WHEREFORE, Claimant Bungie, Inc., prays for the following relief:

A. That judgment be entered in Bungie’s favor against Respondents on all claims.

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1 B. That Respondents and their officers, agents, representatives, servants, employees,
2 heirs, successors, and assigns, and all others in active concert or participation with Respondents
3 be preliminarily and permanently enjoined from:

- 4 (1) Infringing, inducing, or enabling others to infringe Bungie's trademarks,
5 including but not limited to, the DESTINY Marks¹;
- 6 (2) Infringing, inducing, or enabling others to infringe Bungie's copyrights;
- 7 (3) Creating, writing, developing, advertising, promoting, and/or offering for
8 sale or otherwise any software that infringes Bungie's copyrights;
- 9 (4) Descrambling, decrypting, avoiding, bypassing, removing, deactivating, or
10 impairing a technological measure that controls access to Bungie's
11 copyrighted works;
- 12 (5) Manufacturing, importing, offering to the public, providing, or otherwise
13 trafficking in any technology, product, service, device, component, or part
14 thereof that (A) is primarily designed or produced for the purpose of
15 circumventing Bungie's technological measure(s) that effectively controls
16 access to a work; (B) has only limited commercially significant purpose or
17 use other than to circumvent a technological protection measure that
18 effectively controls access to a work; and/or (C) is marketed by
19 Respondents for use in circumventing technological protection measure(s)
20 that effectively control access to a work;
- 21 (6) Manufacturing, importing, offering to the public, providing, or otherwise
22 trafficking in any technology, product, service, device, component, or part
23 thereof that (A) is primarily designed or produced for the purpose of
24 circumventing protection afforded by technological measure(s) that
25

26 ¹ To the extent not expressly defined herein, capitalized terms have the same meaning as provided in the Complaint.

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effectively protects a right of Bungie in a work or a portion thereof; (B) has only limited commercially significant purpose or use other than to circumvent protection afforded by technological protection measure(s) that effectively protect a right of Bungie in a work or a portion thereof; and/or (C) is marketed by Respondents for use in circumventing protection afforded by technological protection measure(s) that effectively protect a right of Bungie in a work or a portion thereof; and

(7) Aiding or assisting another person or entity in any of the activities described in (1) - (6).

C. An order requiring that Respondents provide a copy of all source code and technical documentation relating to any derivative works of Destiny 2 developed or distributed by Respondents, and then immediately destroy all copies of Destiny 2 or any derivative work thereof in their possession or control;

D. An order requiring that Respondents provide a copy of all source code and technical documentation relating to the cheats developed or distributed by Respondents, including all updates and patches, and then immediately destroy all copies of any cheats for Destiny 2;

E. An award to Claimant in an amount to exceed \$250,000 of restitution and damages, including but not limited to damages related to technical and other cheat mitigation expenses; compensatory, statutory, punitive damages; and all other damages permitted by law;

F. That Claimant be awarded pre-judgment and post-judgment interest on all damages awarded against Respondents;

G. An award to Claimant of its costs incurred in this suit as well as reasonable attorneys' fees; and

H. For such other relief as the arbitrator deems just and proper.

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1 DATED this 10th day of February 2022

By: /s/William C. Rava

William C. Rava, WSBA No. 29948

By: /s/Christian W. Marcelo

Christian W. Marcelo, WSBA No. 51193

By: /s/Jacob P. Dini

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Attorneys for Claimant Bungie, Inc.

DEMAND FOR ARBITRATION
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EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGIE, INC., a Delaware corporation,

Plaintiff,

v.

AIMJUNKIES.COM, a business of
unknown classification; PHOENIX
DIGITAL GROUP LLC, an Arizona
limited liability company; JEFFREY
CONWAY, an individual; DAVID
SCHAEFER, an individual; JORDAN
GREEN, an individual; and JAMES MAY,
an individual,

Defendants.

No. 2:21-cv-811

COMPLAINT
WITH JURY DEMAND

Plaintiff Bungie, Inc. (“Plaintiff” or “Bungie”), by and through its undersigned attorneys,
for its Complaint against Defendants AimJunkies.com, Phoenix Digital Group LLC, Jeffrey
Conway, David Schaefer, Jordan Green, and James May (“Defendants”), hereby allege and aver
as follows:

INTRODUCTION

1. Bungie is the owner of the popular Destiny franchise including Destiny 2, an
incredibly successful shared-world first-person action video game. Destiny (2014) and Destiny 2
(2017) and its expansions (2018, 2019, 2020 and ongoing) have been persistent recipients or

1 nominees for rewards worldwide since their release. Destiny, Destiny 2, and its expansions have
2 met with commercial success due in part to their persistent multiplayer features, matchmaking,
3 cooperative Player vs. Environment (PvE) and Player vs. Player (PvP) modes, and in-game
4 rewards. Such rewards include items, seals, and titles that are obtainable by players through
5 skillful gameplay and that are visible to other players, this visibility being an important aspect of
6 the social, always-online nature of the games.

7 2. Defendants develop, advertise, use, and distribute a software cheat that purports to
8 give players an unfair advantage in Destiny 2. Defendants are infringing Bungie’s copyrights
9 and trademarks, circumventing technological measures protecting access to Destiny 2, and
10 breaching and inducing other players to breach Bungie’s Limited Software License Agreement
11 (“LSLA”).

12 3. Cheaters ruin the experience of playing Destiny 2. Not only do cheaters impair
13 the enjoyment of gameplay by non-cheaters with whom they interact in-game; cheaters
14 illegitimately obtain and thereby devalue the in-game rewards that non-cheaters obtain
15 legitimately. It is vital to Bungie’s and Destiny 2’s success that Bungie keep cheaters out of the
16 game. Bungie has expended substantial time and money to keep players from utilizing cheats
17 like those developed by Defendants. Defendants’ cheats cause harm to Bungie including to the
18 goodwill Bungie has developed with the Destiny 2 community as well as to Bungie’s reputation.

19 4. Bungie brings this action to stop Defendants’ unlawful actions, to prevent
20 Defendants from profiting off the unlawful infringement of Bungie’s IP, to prevent Defendants
21 from damaging Bungie’s reputation and diminishing the perceived value of the Destiny IP by
22 impairing the experience of legitimate non-cheat players of Destiny 2, as well as to put cheaters
23 and those who assist them on notice that Bungie does not and will not tolerate cheating in
24 Destiny 2.
25
26

PARTIES

5. Bungie is a Delaware corporation with its principal place of business at 550 106th Avenue NE, Suite 207, Bellevue, Washington, 98004-5088.

6. Defendant Aimjunkies.com is a business of unknown classification that advertises, markets and sells Defendants' cheats.

7. Defendant Phoenix Digital Group LLC ("Phoenix Digital") is an Arizona Limited Liability Company with a mailing address of 8837 W. Vernon, Phoenix, Arizona, 85037.

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10. Defendant Jordan Green is a member of Phoenix Digital with a mailing address of 2839 SW Dickinson Street, Portland, Oregon, 97219.

11. Defendant James May is an individual residing at 2217 Polo Park Drive, Dayton, Ohio, 45439.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over Bungie's claims for violations of the Copyright Act, Lanham Act and related claims pursuant to 15 U.S.C. § 1121, 17 U.S.C. § 501 and 28 U.S.C. §§ 1331 and 1338(a).

13. This Court has supplemental jurisdiction over Bungie's state law claims under 28 U.S.C. § 1367(a) because those claims are so related to Bungie's claims under federal law that they form part of the same case or controversy and derive from a common nucleus of operative fact.

14. Personal jurisdiction over Defendants is proper because Defendants consented to jurisdiction in the state and federal courts in King County, Washington. On information and belief, Defendants accepted the terms of the LSLA, which contain the following forum selection

1 clause: “you agree to submit to the personal jurisdiction of any federal or state court in King
2 County, Washington.”

3 15. Personal jurisdiction over Defendants is also proper because, as more fully set
4 forth below, Defendants infringed Bungie’s copyrights and trademarks, circumvented and/or
5 trafficked in technology that circumvented Bungie’s technological protection measures, and
6 committed other acts directed to Washington. Defendants knew or should have known that the
7 impact of their intentional acts would cause harm in Washington, where Bungie is
8 headquartered.

9 16. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the
10 events or omissions giving rise to the claims occurred in this judicial district and Defendants
11 have harmed Bungie in this judicial district.

12 17. Venue is also proper because Defendants consented to suit in the federal court
13 located in King County, Washington.

14 **FACTS AND BACKGROUND**

15 **A. Bungie and the Destiny Franchise**

16 18. Bungie is an independent game development studio dedicated to creating hopeful
17 worlds that inspire passionate player communities and lifelong friendships. Over the past 20
18 years, Bungie has created many popular video games, including the Halo franchise, the Marathon
19 Trilogy, and the first two Myth games.

20 19. Bungie’s latest, and most ambitious project is the Destiny franchise. The
21 franchise launched in September 2014 with the release of Destiny. In Destiny, players are
22 Guardians of the last safe city on Earth, protecting humanity from aliens and combatting the
23 looming threat of the Darkness, an ongoing threat to humanity. At the time of its release,
24 Destiny offered an unprecedented variety of gameplay that broke traditional conventions of
25 story, cooperative and competitive multiplayer modes, combined with public and social
26 activities.

1 20. Destiny has a large, vibrant and passionate community of players. Since its
2 release in 2014, Destiny attracted more than 10 million players worldwide. Post-launch, Bungie
3 supported the growth of Destiny and the Destiny community by selling downloadable content
4 (“DLC”) expansions with new content and in-game events that offered challenges, new game
5 modes, and rewards for its players.

6 21. The most recent game in the Destiny franchise, Destiny 2, was released in
7 September 2017 and builds on the success of the original game. Destiny 2 is now a free-to-play
8 game with paid expansions, continually refreshed DLC, and a player base estimated over 30
9 million players. As with the original Destiny, Bungie continues to offer new DLC post-launch in
10 Destiny 2 with three major expansions and substantial seasonal releases, including the most
11 recent expansion, Destiny 2: Beyond Light, which allows players to harness new powers and
12 explore a new frontier, Europa.

13 22. Destiny 2 and its expansions have received or been nominated for the following
14 rewards worldwide since their release: in the US, Best Ongoing Game Award (2020, 2019, 2018,
15 2017), Best Community Support Award (2020, 2019), Best Multiplayer Game Award (2018,
16 2017), Best Action Game Award (2018, 2017), and others; and comparable awards and
17 recognitions in Italy, France, Russia, the UK, Australia, New Zealand, Spain, Germany, and
18 elsewhere.

19 23. A key part of the Destiny franchise’s success is the bringing together of players in
20 a shared, persistent world. The Destiny franchise combines the game with a unique social
21 experience by connecting players with a living world that they can explore and social spaces
22 where players can congregate and celebrate achievements.

23 24. Destiny 2 offers a variety of game modes that present exciting challenges for
24 players, and rewards for those who complete them. Players can test their skills in PvP
25 competitive matches, featuring objective-based game modes requiring players to take control of
26 locations on a map or detonating a charge on the opposing team’s base, and non-objective-based

1 game modes which require only that players defeat other players. By performing well in the
2 Crucible (Destiny 2's online PvP gameplay mode) and defeating opponents, players are
3 rewarded with powerful weapons and gear. The endgame PvP contests offer skill-based
4 matchmaking in which teams of players are iteratively matched against stronger opponents, in a
5 system that naturally concentrates cheaters.

6 25. Destiny 2 also offers PvE activities where players, often working together, battle
7 non-player characters to complete objectives. The most challenging PvE activities require a high
8 level of skill and coordination among players to complete. By completing more difficult
9 activities, players can obtain the most powerful weapons and gear with unique abilities. High
10 skill-based performance in endgame PvE content also rewards players with powerful weapons
11 and gear, as well as access to exclusive rewards both in-game (e.g., banners, seals) and in
12 exclusive physical merchandise through the Bungie Rewards program.

13 26. Keeping cheaters out of Destiny 2 is vital to Bungie, the Destiny community, and
14 to the success and continued player interest in the Destiny franchise. Bungie has made
15 substantial investments in time and money to ensure that all players in Destiny 2 achieve success
16 due to their talent and skill, and not due to software that gives them an unfair advantage.

17 27. Cheaters, and those who develop and sell cheats, are especially harmful to the
18 Destiny 2 community. Destiny 2 rewards players for their gameplay skills with items, seals, and
19 titles, and these rewards are visible to other players. Cheaters earn the same rewards without the
20 requisite gameplay skill. When cheating occurs, or when there is a perception that players are
21 cheating, then non-cheating players become frustrated that cheaters obtain the same rewards and
22 stop playing.

23 28. Cheaters are also harmful to the continued commercial success of Destiny 2. As a
24 free-to-play game, Destiny 2's commercial success is dependent upon continued player
25 engagement, including the purchase of DLC and Destiny 2 expansions. When players are
26 deprived of in-game rewards because cheaters defeat them in competitive game modes, or when

1 players' in-game rewards are devalued by cheaters who obtain rewards they otherwise would not
2 have obtained, players stop playing Destiny 2 and purchasing the DLC and expansions.

3 29. On information and belief, cheat software may also be used to surreptitiously
4 install malware and other harmful software on the computers of cheat software users.

5 30. Simply put, cheaters ruin the game for everyone.

6 **B. Bungie's Intellectual Property Rights in the Destiny Franchise**

7 31. Bungie is the owner of all rights, title, and interest in the copyrights in Destiny,
8 Destiny 2 and all expansions, including without limitation, in its computer software and the
9 audiovisual works that software creates (collectively, the "Destiny Copyrights"). These
10 copyrights are the subjects of U.S. Copyright Registrations listed in the table below, and attached
11 hereto as Exhibits 1–4.

Title	Type	Registration No.	Date of 1st Publication	Expiration Date of Registration
Destiny 2	Code (Literary Work)	TX 8-933-655	September 9, 2017	September 9, 2112
Destiny 2: Beyond Light	Code (Literary Work)	TX 8-933-658	November 10, 2020	November 10, 2115
Destiny 2	Audiovisual	PA 2-282-670	September 9, 2017	September 9, 2112
Destiny 2: Beyond Light	Audiovisual	PA 2-280-030	November 10, 2020	November 10, 2115

17 32. Bungie also owns multiple trademarks associated with the Destiny franchise
18 including but not limited to DESTINY, DESTINY (& design), DESTINY 2, DESTINY 2:
19 LIGHTFALL, DESTINY 2: BEYOND LIGHT, and DESTINY 2: THE WITCH QUEEN (the
20 "DESTINY Marks").

21 33. Bungie began using the DESTINY and DESTINY (& design) marks in commerce
22 at least as early as February 1, 2013. Since their first use, Bungie has continually used those
23 marks in connection with video game software.

24 34. Bungie has invested substantial resources in marketing, advertising, and
25 distributing video games under the DESTINY Marks.
26

35. Destiny 2, sold under the DESTINY Marks, has a growing player base of more than 30 million players.

36. Bungie has developed substantial goodwill and strong recognition in the DESTINY Marks, and those marks have come to be associated with Bungie.

37. Through its nationwide use and promotion of the DESTINY Marks, Bungie has established strong rights in those trademarks and they are entitled to protection.

38. Bungie also owns United States Patent and Trademark Office (“USPTO”) Registration No. 4,321,315 for the DESTINY (& design) mark:



A true and correct copy of the registration certificate for the DESTINY (& design) mark is attached hereto as Exhibit 5.

39. Bungie also has pending applications for DESTINY 2: LIGHTFALL (Serial No. 88/955,399), DESTINY 2: BEYOND LIGHT (Serial No. 88/955,392), and DESTINY 2: THE WITCH QUEEN (Serial No. 88/955,395).

C. Bungie’s Efforts to Eliminate Cheaters from Destiny 2

40. Because of Destiny 2’s popularity, it is under constant threat by individuals seeking to make a profit from selling cheats and cheaters seeking to gain an unfair advantage over other players for personal gain and glory.

41. By downloading, installing, and/or playing Destiny 2, players accept the terms of Bungie’s LSLA. If a player does not agree to the LSLA or wishes to reject the terms of the LSLA, then the player may not install, copy, or use Destiny 2. A true and correct copy of the LSLA is attached hereto as Exhibit 6.

42. On information and belief, Defendants each downloaded, installed, and or played Destiny 2 and therefore accepted the terms of the LSLA.

43. Under the LSLA, players agree they will not do, or allow, any of the following:

- a. Exploit Destiny 2 or any of its parts commercially;
- b. Copy, reproduce, distribute, display or use any part of Destiny 2 except as expressly authorized by Bungie;
- c. Sell, rent, lease, license, distribute, or otherwise transfer Destiny 2 or any copies thereof;
- d. Reverse engineer, derive source code, modify, decompile, disassemble, or create derivative works of Destiny 2, in whole or in part; or
- e. Hack or modify Destiny 2, or create, develop, modify, distribute, or use any unauthorized software programs to gain advantage in any online or multiplayer game modes.

44. Bungie employs a variety of technological protection measures that, in the ordinary course of their operation, require the application of information, or a process or a treatment, with the authority of Bungie, to gain access to Destiny 2 and prevent, restrict, or otherwise limit a player's ability to access, copy, or modify Destiny 2. At a high level, the Destiny 2 game client attempts to safeguard critical player data and prevent unauthorized reading and writing of this data, as well as unauthorized execution of game logic. Additional measures are taken to prevent otherwise normal game functionality (e.g. firing a weapon) from being manipulated, misused, or over-used to gain an unfair advantage.

45. The AimJunkies cheat suite evades these protections to offer its users access to hidden player data and to modify or use it to further abuse existing game functionality, thus disrupting other players' experience with the game. The AimJunkies cheat suite also attempts to evade the detection by Bungie of cheat mechanisms.

46. In addition, Bungie provides a mechanism for players to report cheating via an in-game reporting tool or through a form on the Bungie website. Bungie uses those reports along with other tools to investigate players who may be using cheats.

47. Bungie does not tolerate cheating or the individuals and entities who assist players in cheating.

48. Bungie regularly bans players who are connected to cheat makers and/or who use cheat software within Destiny 2.

D. Defendants' Cheat Software

49. Defendants created, advertised, sold, and distributed cheat software, including for Destiny 2.

50. Defendants advertised and sold their cheats through their website, AimJunkies.com. Defendants' sold their cheat, "Destiny 2 Hacks," for \$34.95/month.

51. On information and belief, Defendant Phoenix Digital owns and controls AimJunkies. According to the AimJunkies website, the website was acquired by Phoenix Digital in or around June 2016.

52. As of December 4, 2020, Phoenix Digital was listed as the seller of the Destiny 2 cheat software purchased through AimJunkies.

53. Destiny 2 players who purchase and deploy Defendants' cheat may be given an unfair advantage over non-cheating Destiny 2 players. For example, Defendants' "Destiny 2 Aimbot" claims to automatically aim at enemy players without requiring input from the cheat user; the "Destiny 2 No Recoil" purports to eliminate recoil from weapons, allowing the user to stay locked on to his/her enemies; and the "ESP" feature purportedly allows the cheat user to see players and items through walls, which non-cheating players cannot do.

54. On information and belief, Defendants created, maintained, and modified their cheat software by first downloading, installing, and/or playing Destiny 2.

1 55. On information and belief, Defendants copied and distributed Bungie's
2 copyrighted works in order to reverse engineer, disassemble, decompile, decrypt, and modify
3 those works without Bungie's authorization.

4 56. On information and belief, Defendants incorporated technology into their cheat
5 software that avoids, bypasses, removes, deactivates, and/or impairs Bungie's technological
6 measures that control access to Bungie's copyrighted code and/or audiovisual works for Destiny
7 2.

8 57. Furthermore, on information and belief, each time a Destiny 2 player uses
9 Defendants' cheat software, the cheat software circumvents Bungie's technological protection
10 measures by evading anti-cheat protections and detection to offer its users access to hidden
11 player data and to modify or use it to further abuse existing game functionality.

12 58. Each time a player uses Defendants' cheat software while playing Destiny 2, that
13 player breaches the LSLA by "us[ing] an[] unauthorized software program[] to gain advantage in
14 any online or multiplayer game modes."

15 59. The purpose of Defendants' cheat is to allow players to gain an advantage in
16 Destiny 2. Defendants' website states that it "offers cheats and mods that give a user an
17 improved experience and an advantage over the competition," boasting that "AimJunkies is the
18 first place to go for the best cheating experience."

19 60. Defendants know their cheat software cannot be used without violating the LSLA.
20 Defendants encourage and induce their users to use their cheat software by claiming that their
21 hacks are "Undetected," suggesting to their users that their cheating would be unknown to
22 Bungie.

23 61. Defendants have caused and continue to cause serious harm to the value of
24 Destiny 2 and to the Destiny 2 community by preventing players who do not use cheats from
25 enjoying the game, causing players to grow dissatisfied and stop playing.
26

62. In addition, Bungie has been forced to expend significant resources attempting to detect, investigate, and remediate this activity, including creating and releasing new versions of the game, responding to player complaints, and banning users of Defendants' cheat software.

63. Defendants' conduct has harmed Bungie's reputation and goodwill among the Destiny community.

64. Although Bungie is unable to confirm that Defendants continue to offer the cheat, Bungie is equally unable to confirm that Defendants have permanently and forever discontinued any offering of the cheat. Defendants may still be offering the cheat, and Defendants' conduct is capable of repetition, either by selling the same cheat software again on AimJunkies.com or another website.

65. Furthermore, recent activity on Bungie's servers indicative of a toolset connected with AimJunkies suggests that Defendants continue to develop and, presumably, also offer the Destiny 2 cheat software on platforms currently undetected by Bungie.

FIRST CAUSE OF ACTION

(Copyright Infringement, 17 U.S.C. § 501, *et seq.*)

66. Bungie repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

67. Destiny 2 constitutes an original work of authorship and copyrightable subject matter under the laws of the United States.

68. Bungie owns or has exclusive rights to all right, title, and interest in Destiny 2.

69. Defendants had access to Destiny 2.

70. Defendants' cheat software infringes Bungie's Destiny Copyrights by copying, producing, preparing unauthorized derivative works from, distributing and/or displaying Destiny 2 publicly all without Bungie's permission.

71. Defendants' copies, reproductions, derivative works, and/or displays are identical or substantially similar to the copyrighted works.

72. Defendants' actions are willful.

73. Bungie has been and will continue to be damaged by Defendants' unlawful infringement.

74. Defendants' conduct has caused irreparable harm to Bungie, and, unless enjoined, will cause further irreparable harm for which Bungie has no adequate remedy at law.

75. Bungie is entitled to relief pursuant to 17 U.S.C. §§ 502-505, including, but not limited to, injunctive relief, an order for the impounding and destruction of Defendants' infringing copies and/or derivative works, compensatory damages (including, but not limited to actual damages and/or Defendants' profits), and Bungie's costs and attorneys' fees.

SECOND CAUSE OF ACTION

(Trademark Infringement, 15 U.S.C. § 1114)

76. Bungie repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

77. Defendants' unauthorized use of the DESTINY (& design) mark to advertise, promote and sell their cheat constitutes infringement of Bungie's registered DESTINY (& design) mark.

78. Because of Bungie's continuous and exclusive use of the DESTINY (& design) mark, it has come to mean, and is understood by consumers to signify products of Bungie.

79. Defendants' unauthorized use of the DESTINY (& design) mark in connection with the sale, offering for sale, distribution, and advertising of cheats, is likely to cause confusion, mistake, or deception as to the source, origin, or authenticity of Defendants' products and services.

80. Further, Defendants' activities are likely to lead consumers to conclude, incorrectly, that Defendants' products and services originate with or are authorized by Bungie.

81. Defendants' actions damage and harm Bungie.

82. Bungie is entitled to the relief provided by 15 U.S.C. § 1117, including, but not limited to, statutory damages, enhanced damages, Defendants' profits, Bungie's damages, and the costs of this action.

83. Defendants knew of Bungie's rights, and their infringement has been knowing, willful, and deliberate, such that the Court should award Bungie its attorneys' fees pursuant to 15 U.S.C. § 1117.

84. Bungie has been, and continues to be, damaged by such acts in a manner that cannot be fully measured or compensated in economic terms and therefore has no adequate remedy at law. Furthermore, upon showing a violation of 15 U.S.C. § 1114, Bungie is entitled a rebuttable presumption of irreparable harm from that violation, and seeks permanent injunctive relief pursuant to 15 U.S.C. § 1116.

85. Defendants' activities have damaged, and threaten to continue damaging, Bungie's reputation and goodwill.

THIRD CAUSE OF ACTION

(False Designation of Origin, 15 U.S.C. § 1125(a))

86. Bungie repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

87. Bungie has strong rights in the DESTINY Marks.

88. Defendants' actions constitute the use in interstate commerce of a false designation of origin, false or misleading description of fact, or false or misleading representations of fact that are likely to cause confusion or mistake, or to deceive as to the affiliation, connection, or association of Defendants' products and services with Bungie, or as to the origin, sponsorship, or approval of the goods and services provided by Defendants in violation of 15 U.S.C. § 1125(a).

89. Bungie is entitled to the relief provided by 15 U.S.C. § 1117(a), including, but not limited to, Defendants' profits, Bungie's damages, and the costs of this action.

90. Defendants knew of Bungie's rights, and their infringement has been knowing, willful, and deliberate, such that the Court should award Bungie its attorneys' fees pursuant to 15 U.S.C. § 1117.

91. Defendants' activities have damaged, and threaten to continue damaging, Bungie's reputation and goodwill.

92. Bungie has been, and continues to be, damaged by such acts in a manner that cannot be fully measured or compensated in economic terms and therefore has no adequate remedy at law. Furthermore, upon showing a violation of 15 U.S.C. § 1125(a), Bungie is entitled a rebuttable presumption of irreparable harm from that violation, and seeks permanent injunctive relief pursuant to 15 U.S.C. § 1116.

FOURTH CAUSE OF ACTION

(Circumvention of Technological Measures, 17 U.S.C. § 1201(a))

93. Bungie repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

94. Bungie is the owner of valid, registered, and enforceable copyrights in Destiny 2.

95. Bungie has designed and implemented technological measures to prevent and control access to Destiny 2. These technological measures include attempts to safeguard critical player data and prevent unauthorized reading and writing of this data, as well as unauthorized execution of game logic. Additional measures are taken to prevent otherwise normal game functionality (e.g. firing a weapon) from being manipulated, misused, or over-used to gain an unfair advantage.

96. In the ordinary course of the operation of these technological measures, they require the application of information, or a process or a treatment, with the authority of Bungie, to gain access to Destiny 2.

1 97. On information and belief, Defendants descrambled, decrypted, avoided,
2 bypassed, removed, deactivated, and/or impaired one or more of Bungie's technological
3 measures that control access to Destiny 2 without the authority of Bungie.

4 98. As a direct result of Defendants' circumvention, Bungie has been injured, and will
5 continue to be injured.

6 99. Defendants' actions were and are willful.

7 100. Defendants' conduct has caused irreparable harm to Bungie, and, unless enjoined,
8 will cause further irreparable harm for which Bungie has no adequate remedy at law.

9 101. Bungie is entitled to the relief provided by 17 U.S.C. § 1203, including, but not
10 limited to, injunctive relief, an order for the impounding, modification, or destruction of any
11 device or product in Defendants' custody or control involved in the circumvention of Bungie's
12 technological measures, actual damages and Defendants' profits or statutory damages, and
13 Bungie's costs and attorneys' fees.

14 **FIFTH CAUSE OF ACTION**

15 **(Trafficking in Circumvention Technology, 17 U.S.C. §§ 1201(a)-(b))**

16 102. Bungie repeats, realleges, and incorporates herein by reference the allegations in
17 the foregoing paragraphs as if fully set forth herein.

18 103. Bungie is the owner of valid, registered, and enforceable copyrights in Destiny 2.

19 104. Bungie has designed and implemented technological measures that include
20 attempts to safeguard critical player data and prevent unauthorized reading and writing of this
21 data, as well as unauthorized execution of game logic. Additional measures are taken to prevent
22 otherwise normal game functionality (e.g. firing a weapon) from being manipulated, misused, or
23 over-used to gain an unfair advantage.

24 105. In the ordinary course of the operation of these technological measures, they
25 prevent, restrict, or otherwise limit the exercise of any rights in Destiny 2 exclusive to Bungie,
26

1 including unauthorized modification of the game client or unauthorized modification of
2 information sent to or from Bungie's servers.

3 106. On information and belief, Defendants manufacture, import, offer to the public,
4 provide, or otherwise traffic in cheat software that contains technology, products, services,
5 devices, components, or parts thereof, that (A) is primarily designed or produced for the purpose
6 of circumventing Bungie's technological measure(s) that effectively controls access to a work;
7 (B) has only limited commercially significant purpose or use other than to circumvent a
8 technological protection measure that effectively controls access to a work; and/or (C) is
9 marketed by Defendants for use in circumventing technological protection measure(s) that
10 effectively control access to a work.

11 107. On information and belief, Defendants manufacture, import, offer to the public,
12 provide, or otherwise traffic in a technology, product, service, device, component, or part
13 thereof, that (A) is primarily designed or produced for the purpose of circumventing protection
14 afforded by technological measure(s) that effectively protects a right of Bungie in a work or a
15 portion thereof; (B) has only limited commercially significant purpose or use other than to
16 circumvent protection afforded by technological protection measure(s) that effective protect a
17 right of Bungie in a work or a portion thereof; and/or (C) is marketed by Defendants for use in
18 circumventing protection afforded by technological protection measure(s) that effective protect a
19 right of Bungie in a work or a portion thereof.

20 108. As a direct result of Defendants' trafficking, Bungie has been injured, and will
21 continue to be injured.

22 109. Defendants' actions were and are willful.

23 110. Defendants' conduct has caused irreparable harm to Bungie, and, unless enjoined,
24 will cause further irreparable harm for which Bungie has no adequate remedy at law.

25 111. Bungie is entitled to the relief provided by 17 U.S.C. § 1203, including, but not
26 limited to, injunctive relief, an order for the impounding, modification, or destruction of any

1 device or product in Defendants' custody or control involved in the circumvention of Bungie's
2 technological measures, damages measured at Bungie's election either by Bungie's actual
3 damages and Defendants' profits or statutory damages, and Bungie's costs and attorneys' fees.

4 **SIXTH CAUSE OF ACTION**

5 **(Breach of Contract)**

6 112. Bungie repeats, realleges, and incorporates herein by reference the allegations in
7 the foregoing paragraphs as if fully set forth herein.

8 113. Access to and use of Destiny 2 is governed by and subject to the LSLA.

9 114. At all times relevant hereto, Bungie prominently displayed and/or provided links
10 to the LSLA, including on its website, www.bungie.net.

11 115. On information and belief, Defendants agreed to the LSLA by downloading,
12 installing, and/or using Destiny 2.

13 116. The LSLA is a valid, enforceable contract between Bungie and Defendants.

14 117. Defendants breached the LSLA by:

- 15 a. Exploiting Destiny 2 commercially;
- 16 b. Copying, reproducing, distributing, displaying and/or using Destiny 2;
- 17 c. Selling, renting, leasing, licensing, distributing, and/or transferring
18 Destiny 2 or any copies thereof;
- 19 d. Reverse engineering, deriving source code, modifying, decompiling,
20 disassembling, and/or creating derivative works of Destiny 2, in whole or
21 in part; and/or
- 22 e. Hacking or modifying Destiny 2, or creating, developing, modifying,
23 distributing, or using any unauthorized software programs to gain
24 advantage in any online or multiplayer game modes.

25 118. Bungie has performed its obligations pursuant to the LSLA.
26

120. Bungie repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

121. When a player downloads, installs, and or uses Destiny 2, the player accepts the terms of the LSLA.

122. The LSLA is a valid and enforceable contract between Bungie and Destiny 2 players.

123. On information and belief, Defendants were aware of the LSLA between Bungie and players of Destiny 2 because Defendants, by downloading, installing, and/or using Destiny 2, also agreed to the terms of the LSLA.

124. Defendants were aware that the LSLA prohibits “hack[ing] or modify[ing] [Destiny 2], or . . . us[ing] any unauthorized software programs to gain advantage in any online or multiplayer game modes.”

125. Defendants intentionally induced or caused Destiny 2 players that use Defendants' cheat to breach the LSLA.

126. On information and belief, Defendants interfered with Bungie's contracts with Destiny 2 players with an improper purpose.

127. Defendants also interfered with Bungie's contracts with Destiny 2 players through improper means, including the acts described above.

128. As a result of Defendants' conduct, Bungie has suffered damages, including but not limited to loss of goodwill among players of Destiny 2, expenditure of resources to detect, investigate, and prevent use of Defendants' cheat software, and decreased profits.

EIGHTH CAUSE OF ACTION

(Violation of the Washington Consumer Protection Act, RCW 19.86.020)

129. Bungie repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

130. The foregoing acts of Defendants constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce in violation of RCW 19.86.020.

131. Defendants' conduct affects and is contrary to the public interest, tends to mislead a substantial portion of the public, and has injured and, unless enjoined, will continue to injure Bungie in its business and property.

132. As a result of Defendants' conduct Bungie has been and will continue to be damaged and is entitled to actual damages, treble damages, costs of litigation, attorneys' fees, and an injunction.

NINTH CAUSE OF ACTION

(Unjust Enrichment)

133. Bungie repeats, realleges, and incorporates herein by reference the allegations in the foregoing paragraphs as if fully set forth herein.

134. Defendants have received, and continue to receive, a monetary benefit from Destiny 2 players that purchase their cheat.

135. Defendants received, and continue to receive, this benefit at Bungie's expense.

136. Under the circumstances, it is unjust for Defendants to retain the benefit without payment to Bungie.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), plaintiff demands a trial by jury as to all issues so triable in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Bungie, Inc., prays for the following relief:

A. That judgment be entered in Bungie's favor against Defendants on all claims.

B. That Defendants and their officers, agents, representatives, servants, employees, heirs, successors, and assigns, and all others in active concert or participation with Defendants be preliminarily and permanently enjoined from:

- (1) Infringing, inducing, or enabling others to infringe Bungie's trademarks, including but not limited to, the DESTINY Marks;
- (2) Infringing, inducing, or enabling others to infringe Bungie's copyrights;
- (3) Creating, writing, developing, advertising, promoting, and/or offering for sale or otherwise any software that infringes Bungie's copyrights;
- (4) Descrambling, decrypting, avoiding, bypassing, removing, deactivating, or impairing a technological measure that controls access to Bungie's copyrighted works;
- (5) Manufacturing, importing, offering to the public, providing, or otherwise trafficking in any technology, product, service, device, component, or part thereof that (A) is primarily designed or produced for the purpose of circumventing Bungie's technological measure(s) that effectively controls access to a work; (B) has only limited commercially significant purpose or use other than to circumvent a technological protection measure that effectively controls access to a work; and/or (C) is marketed by Defendants for use in circumventing technological protection measure(s) that effectively control access to a work;
- (6) Manufacturing, importing, offering to the public, providing, or otherwise trafficking in any technology, product, service, device, component, or part thereof that (A) is primarily designed or produced for the purpose of

circumventing protection afforded by technological measure(s) that effectively protects a right of Bungie in a work or a portion thereof; (B) has only limited commercially significant purpose or use other than to circumvent protection afforded by technological protection measure(s) that effectively protect a right of Bungie in a work or a portion thereof; and/or (C) is marketed by Defendants for use in circumventing protection afforded by technological protection measure(s) that effectively protect a right of Bungie in a work or a portion thereof; and

(7) Aiding or assisting another person or entity in any of the activities described in (1) - (6).

C. An order requiring that Defendants immediately destroy all copies of Destiny 2 or any derivative work thereof in their possession or control;

D. An order requiring that Defendants immediately destroy all copies of any cheats for Destiny 2;

E. An award to Plaintiffs of restitution and damages, including but not limited to compensatory, statutory (including enhanced statutory damages for willful infringement), punitive damages, and all other damages permitted by law;

F. That Bungie be awarded pre-judgment and post-judgment interest on all damages awarded against Defendants;

G. An award to Plaintiffs of their costs incurred in this suit as well as reasonable attorneys' fees; and

H. For such other relief as the Court deems just and proper.

1 DATED this 15th day of June 2021

By: /s/William C. Rava

William C. Rava, WSBA No. 29948

By: /s/Jacob P. Dini

Jacob P. Dini, WSBA No. 54115

Perkins Coie LLP

1201 Third Avenue, Suite 4900

Seattle, WA 98101-3099

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Facsimile: 206.359.9000

Email: WRava@perkinscoie.com

JDini@perkinscoie.com

Attorneys for Plaintiff Bungie, Inc.

Exhibit 1

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Shira Perlmutter
United States Register of Copyrights and Director

Registration Number

TX 8-933-655

Effective Date of Registration:

February 09, 2021

Registration Decision Date:

February 10, 2021



Title

Title of Work: Destiny 2

Completion/Publication

Year of Completion: 2017
Date of 1st Publication: September 09, 2017
Nation of 1st Publication: United States

Author

- Author: Bungie, Inc.
Author Created: computer program
Work made for hire: Yes
Citizen of: United States
- Author: Activision Publishing, Inc.
Author Created: computer program, contributions to computer code
Work made for hire: Yes
Citizen of: United States

Copyright Claimant

Copyright Claimant: Bungie, Inc.
550 106th Ave NE, Suite 207, Bellevue, WA, 98004, United States
Transfer statement: By written agreement

Limitation of copyright claim

Material excluded from this claim: computer program, previously published and third-party contributions to the computer code
Previous registration and year: TX0008047244, 2015
New material included in claim: computer program, new and revised computer code

Rights and Permissions

Organization Name: Bungie Legal Department, Bungie, Inc.
Email: legal@bungie.com
Address: 550 106th Ave NE
Suite 207
Bellevue, WA 98004 United States

Certification

Name: Patchen M. Haggerty
Date: February 09, 2021
Applicant's Tracking Number: 139303-6000.US01

Correspondence: Yes

Exhibit 2

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Shira Perlmutter

United States Register of Copyrights and Director

Registration Number

TX 8-933-658

Effective Date of Registration:

February 09, 2021

Registration Decision Date:

February 10, 2021



Title

Title of Work: Destiny 2: Beyond Light

Completion/Publication

Year of Completion: 2020

Date of 1st Publication: November 10, 2020

Nation of 1st Publication: United States

Author

- **Author:** Bungie, Inc.
Author Created: computer program
Work made for hire: Yes
Citizen of: United States
- **Author:** Activision Publishing, Inc.
Author Created: computer program, contributions to computer code
Work made for hire: Yes
Citizen of: United States

Copyright Claimant

Copyright Claimant: Bungie, Inc.
 550 106th Ave NE, Suite 207, Bellevue, WA, 98004, United States
Transfer statement: By written agreement

Limitation of copyright claim

Material excluded from this claim: computer program, previously published and third-party contributions to the computer code

Previous registration and year: TX0008047244, 2015

New material included in claim: computer program, new and revised computer code

Rights and Permissions

Organization Name: Bungie Legal Department, Bungie, Inc.
Email: legal@bungie.com
Address: 550 106th Ave NE
Suite 207
Bellevue, WA 98004 United States

Certification

Name: Patchen M. Haggerty
Date: February 09, 2021
Applicant's Tracking Number: 139303-6000.US02

Correspondence: Yes

Exhibit 3

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Shirley P. Krumholz
United States Register of Copyrights and Director

Registration Number

PA 2-282-670

Effective Date of Registration:

March 23, 2021

Registration Decision Date:

March 24, 2021

Title

Title of Work: Destiny 2

Completion/Publication

Year of Completion: 2017
Date of 1st Publication: September 09, 2017
Nation of 1st Publication: United States

Author

- Author: Bungie, Inc
Author Created: audiovisual material including music and sounds
Work made for hire: Yes
Citizen of: United States
- Author: Activision Publishing, Inc
Author Created: contributions to audiovisual material
Work made for hire: Yes
Citizen of: United States

Copyright Claimant

Copyright Claimant: Bungie, Inc
550 106th Ave NE, Suite 207, Bellevue, WA, 98004, United States
Transfer statement: By written agreement

Limitation of copyright claim

Material excluded from this claim: preexisting audiovisual material from prior "Destiny" videogame

New material included in claim: audiovisual material including musical compositions and sounds

Rights and Permissions

Organization Name: Bungie Legal Department, Bungie, Inc
Email: legal@bungie.com
Address: 550 106th Ave NE
Suite 207
Bellevue WA 98004 United States

Certification

Name: Patchen M Haggerty
Date: March 23, 2021
Applicant's Tracking Number: 139303-6000 US03

Correspondence: Yes

Exhibit 4

Registration #: PA0002280030
Service Request #: 1-10156210289

Mail Certificate

Perkins Coie LLP
Patchen M. Haggerty
P.O. Box 2608
Seattle, WA 98111 United States

Priority: Special Handling **Application Date:** February 10, 2021

Note to C.O.: Copyright application is for the multimedia elements of a videogame. Deposit materials include a written synopsis of the videogame, sound recordings, a video of gameplay, and a series of pictorial images to represent the audiovisual elements. The artwork in the deposit is collective as a whole of the videogame.

Correspondent

Organization Name: Perkins Coie LLP
Name: Patchen M. Haggerty
Email: pctrademarks@perkinscoie.com
Telephone: (206)359-8000
Fax: (206)359-9000
Address: 1201 Third Avenue, Suite 4900
Seattle, WA 98101 United States

Registration Number

PA 2-280-030

Effective Date of Registration:

February 10, 2021

Registration Decision Date:

March 05, 2021

Title

Title of Work: Destiny 2: Beyond Light

Completion/Publication

Year of Completion: 2020

Date of 1st Publication: November 10, 2020

Nation of 1st Publication: United States

Author

- Author:** Bungie, Inc.
Author Created: audiovisual material including music and sounds
Work made for hire: Yes
Citizen of: United States
- Author:** Activision Publishing, Inc.
Author Created: contributions to audiovisual material
Work made for hire: Yes
Citizen of: United States

Copyright Claimant

Copyright Claimant: Bungie, Inc.
550 106th Ave NE, Suite 207, Bellevue, WA, 98004, United States
Transfer statement: By written agreement

Limitation of copyright claim

Material excluded from this claim: preexisting audiovisual material, music compositions and sound recordings from previous versions of "Destiny 2" videogame

New material included in claim: audiovisual material including musical compositions and sounds

Rights and Permissions

Organization Name: Bungie Legal Department, Bungie, Inc.
Email: legal@bungie.com
Address: 550 106th Ave NE
Suite 207
Bellevue, WA 98004 United States

Certification

Name: Patchen M. Haggerty
Date: February 10, 2021
Applicant's Tracking Number: 139303-6000.US04

Correspondence: Yes

Exhibit 5

United States of America

United States Patent and Trademark Office

D E S T I N Y



Reg. No. 4,321,315

Registered Apr. 16, 2013

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

BUNGIE, INC. (DELAWARE CORPORATION)
550 106TH AVENUE NE
SUITE 207
BELLEVUE, WA 980045088

FOR: COMPUTER GAME SOFTWARE; COMPUTER GAME SOFTWARE DOWNLOADABLE FROM A GLOBAL COMPUTER NETWORK; VIDEO GAME SOFTWARE, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 2-1-2013; IN COMMERCE 2-1-2013.

THE MARK CONSISTS OF THE STYLIZED WORD "DESTINY" AND MISCELLANEOUS DESIGN WHICH CONSISTS OF A ROUNDED THREE SIDED SHAPE POINTING DOWN WITH AN OBLONG VERTICAL SHAPE CENTERED IN THE TOP OF THE DESIGN.

SN 77-784,606, FILED 7-20-2009.

BRIAN PINO, EXAMINING ATTORNEY



Lea Stettin Lee

Acting Director of the United States Patent and Trademark Office

Exhibit 6



SLA

TERMS OF USE

Limited Software License Agreement (Last updated March 6, 2020)

SLA

For all purposes, this English language version of this Agreement shall be the original, governing instrument and understanding of the parties. In the event of any conflict between this English language version of the Agreement and any subsequent translation into any other language, this English language version shall govern and control.

PRIVACY POLICY

IMPORTANT NOTICE FOR RESIDENTS IN NORTH AMERICA ONLY: THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION

AND A WAIVER OF CLASS ACTION RIGHTS AS DETAILED BELOW.

COOKIE POLICY

SOFTWARE LICENSE AGREEMENT

CODE

USE OF THIS SOFTWARE PROGRAM (AND ANY PATCHES AND UPDATES), INCLUDING BUT NOT LIMITED TO ANY TITLES, COMPUTER CODE, THEMES, OBJECTS, CHARACTERS, CHARACTER NAMES, STORIES, DIALOG, CATCH PHRASES, LOCATIONS, CONCEPTS, ARTWORK, ANIMATION, SOUNDS, MUSICAL COMPOSITIONS, AUDIO-VISUAL EFFECTS, METHODS OF OPERATION, MORAL RIGHTS AND ANY RELATED DOCUMENTATION INCORPORATED INTO THIS SOFTWARE PROGRAM, THE ASSOCIATED MEDIA, PRINTED MATERIALS, AND/OR ONLINE OR ELECTRONIC DOCUMENTATION (COLLECTIVELY, THE "PROGRAM") IS SUBJECT TO THIS SOFTWARE LICENSE AGREEMENT (THIS "AGREEMENT"). IF YOU ARE UNDER THE AGE OF MAJORITY IN YOUR JURISDICTION OR EIGHTEEN (18) YEARS OF AGE, WHICHEVER IS OLDER, PLEASE ASK YOUR PARENT OR GUARDIAN TO READ AND ACCEPT THIS AGREEMENT ON YOUR BEHALF BEFORE YOU USE THE PROGRAM. BY OPENING THIS PACKAGE, DOWNLOADING, INSTALLING, AND/OR USING THE PROGRAM, YOU ACCEPT THE TERMS OF THIS AGREEMENT BETWEEN YOU AND BUNGIE, INC. ("BUNGIE"). IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, YOU ARE NOT PERMITTED TO INSTALL, COPY, OR USE THE PROGRAM. IF YOU WISH TO REJECT THE TERMS OF THIS AGREEMENT, YOU MUST NOT INSTALL, COPY, OR USE THE PROGRAM.

LICENSES

INTELLECTUAL PROPERTY & TRADEMARKS

PAYMENT SERVICES ACT

BUNGIE'S PRIVACY POLICY AVAILABLE AT <http://www.bungie.net/en/View/bungie/privacy> SHALL BE DEEMED TO BE PART OF THE "AGREEMENT" ACCEPTED AND AGREED TO BY YOU AND THE TERMS OF SUCH ARE INCORPORATED HEREIN BY REFERENCE.

FOR RESIDENTS OUTSIDE NORTH AMERICA: IF YOU (OR, IF APPLICABLE, YOUR PARENT OR GUARDIAN) DO NOT AGREE TO THIS AGREEMENT, THEN YOU MUST NOT USE OR ACCESS THE PROGRAM OR ANY PART THEREOF. BY "CLICKING TO ACCEPT," YOU REPRESENT AND WARRANT THAT YOU ARE A "NATURAL PERSON" WHO IS OVER THE AGE OF EIGHTEEN (18) OR WHOSE LEGAL GUARDIAN HAS ACCEPTED AND AGREED TO THIS AGREEMENT. IF YOU REJECT THIS AGREEMENT, YOUR RETURN RIGHTS IN RELATION TO THE PROGRAM ARE GOVERNED BY YOUR STATUTORY RIGHTS IN THE COUNTRY WHERE YOU BOUGHT THE PROGRAM. NOTHING IN THIS PARAGRAPH SHALL AFFECT YOUR STATUTORY RIGHTS. PLEASE NOTE THAT



MULTIPLAYER COMPONENTS, OR UPDATED FEATURES, MAY REQUIRE ASSENT TO ADDITIONAL TERMS OF SERVICE. IF YOU DO NOT ASSENT TO ADDITIONAL TERMS OF SERVICE, YOU MAY NOT BE ABLE TO ACCESS OR USE ADDITIONAL GAME FEATURES. PLEASE REVIEW THE ADDITIONAL TERMS OF SERVICE AT <http://www.bungie.net/en/View/Bungie/terms> BEFORE INSTALLING OR USING THE PROGRAM.

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and workmanship for 90 days from the date of purchase. If the Goods are found defective within 90 days of original purchase, Bungie agrees to replace, free of charge, any such defective Goods within such period, upon its receipt of the Program (postage paid, with proof of the date of purchase) so long as the Goods are still being manufactured by Bungie. If the Goods are no longer available, Bungie retains the right to substitute similar goods of equal or greater value. This warranty is limited to the Goods, as originally provided by Bungie, and is not applicable to normal wear and tear. This warranty shall not be applicable, and shall be void, if the defect has arisen through abuse, mistreatment, or neglect. Any implied warranties prescribed by statute are expressly limited to the 90-day period described above. EXCEPT AS SET FORTH HEREIN, THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

For customers in EU and other countries: This warranty is provided without prejudice to your statutory rights as a consumer which will always prevail. Bungie will only be responsible for any loss or damage you suffer that is a foreseeable result of the breach of this Agreement by Bungie or its negligence. Nothing in this Agreement shall limit or exclude our liability for death or personal injury resulting from negligence, fraudulent misrepresentation; or any other liability that cannot be excluded or limited by English law. This section shall prevail over all other parts of this Agreement.

LIMITATION ON DAMAGES: IN NO EVENT WILL BUNGIE BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM POSSESSION, USE, OR MALFUNCTION OF THE PROGRAM, INCLUDING DAMAGES TO PROPERTY, LOSS OF GOODWILL, COMPUTER FAILURE OR MALFUNCTION AND, TO THE EXTENT PERMITTED BY LAW, DAMAGES FOR PERSONAL INJURIES, EVEN IF BUNGIE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BUNGIE'S LIABILITY SHALL NOT EXCEED THE ACTUAL PRICE PAID FOR THE LICENSE TO USE THIS PROGRAM. SOME STATES/COUNTRIES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS AND/OR THE EXCLUSION OR LIMITATION OF DAMAGES, SO THE ABOVE LIMITATIONS AND/OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

TERMINATION: Without prejudice to any other rights of Bungie, this Agreement will terminate automatically if you fail to comply with its terms and conditions. In such event, you must destroy all copies of this Program and all of its component parts. You may also terminate the Agreement at any time by permanently deleting any installation of the Program, and destroying all copies of the Program in your possession or control. Bungie may terminate this Agreement at any time for any reason or no reason. In such event, you must destroy all copies of the Program and all of its component parts. The License Limitations, limitation on damages, limited warranty, indemnity, and miscellaneous provisions shall survive termination of this Agreement.

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INJUNCTION: Because Bungie would be irreparably damaged if the terms of this Agreement were not specifically enforced, you agree that Bungie shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect to breaches of this Agreement, in addition to such other remedies as Bungie may otherwise have under applicable laws.

INDEMNITY: You agree to indemnify, defend, and hold Bungie, its partners, affiliates, licensors, contractors, officers, directors, employees, and agents harmless from all damages, losses and expenses arising directly or indirectly from your breach of this Agreement and/or your acts and omissions in using the Program pursuant to the terms of this



the terms and conditions of this Agreement, at any time and by any means, including, without limitation, (1) by posting the modifications to <http://bungie.net/sla>; and/or (2) by requiring you to “click to accept” when Bungie upgrades or patches the Program, and your continued use of the Program constitutes your acceptance of the modifications. The changes to the Agreement will be effective upon prior notice as follows: Bungie will post the revised version of this Agreement on its website, may include the terms with a patch or update and require acceptance as part of the installation process, or may provide such other notice as Bungie may elect in its sole discretion. If any future changes to this Agreement are unacceptable to you or cause you to no longer be in compliance with this Agreement, you may terminate this Agreement and receive a refund in accordance with this Agreement. Your installation and use of any of Bungie's updates, patches or modifications to the Program or your continued use of the Program following notice of changes to this Agreement will demonstrate your acceptance of any and all such changes. If any future modifications are implemented as a “click to accept” agreement, you may not be able to continue using the Program unless you affirmatively accept the modified Agreement.

LIVE CONTENT: “Live Content” consists of content provided to Program users (e.g., unlockable content, gear, live events, activities, destinations, accounts, stats, virtual assets, virtual currencies, codes, and achievements) in connection with use of the Program. While the Program may allow you to “earn”, “buy”, or “purchase” Live Content within or in connection with gameplay, you do not in fact own or have any property interest in the Live Content. Unless otherwise specified in writing, any Live Content that you receive is licensed to you as set forth herein, and you shall have no ownership right thereto. Unless specifically permitted by Bungie, you may not, sell, lend, rent, trade, or otherwise transfer any Live Content. Live Content may be altered, removed, deleted, or discontinued by Bungie at any time (e.g., upon termination of this Agreement and/or cessation of online support for the Program), even if you have not “used” or “consumed” the Live Content prior to alteration, removal, deletion, or discontinuation. Some Live Content, including without limitation, activities, maps, and gear, may be made available to players for only a limited time. Live Content has no monetary value and does not constitute property of any type.

Without limiting the above, Live Content may include virtual coins, points or other virtual currencies (“Virtual Currency”). By purchasing or otherwise acquiring Virtual Currency, you obtain a limited license (which is revocable by Bungie at any time unless otherwise required by applicable laws) to access and select from other Live Content. Virtual Currency has no monetary value and does not constitute currency or property of any type. Virtual Currency may be redeemed for other Live Content only, if at all. Virtual Currency cannot be sold or transferred, and cannot be exchanged for cash or for any other goods and services, except for other Live Content, where applicable. Subject to applicable local law, Virtual Currency is non-refundable. You are not entitled to a refund or any other compensation such as Live Content for any unused Virtual Currency and unused Virtual Currency is non-exchangeable.

There may be Live Content (should you choose to purchase it) which will require you to make a payment with real money, the amount of which will be set out in the Program. Live Content purchases are non-refundable and you acknowledge that this is the case and that you will have no right to change your mind and cancel (sometimes known as a ‘cooling off’ right) once your purchase is complete. Depending on your platform, any Live Content purchased, may be purchased from your platform provider and such purchase will be subject to your platform provider's Terms of Service and User Agreement. Please check usage rights for each purchase as these may differ from item to item. Unless otherwise shown, content available in any game store has the same age rating as the game.

For SIEA users: When accessing the Program on a Sony PlayStation® product, purchase and use of items are subject to Sony's Network Terms of Service and User Agreement. This online service has been sublicensed to you by Sony Interactive Entertainment America.

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the Program (collectively, "Online Services") or Live Content will be available at all times or at any given time or that Bungie will continue to offer Online Services or Live Content for any particular length of time. Bungie may change and update Online Services or Live Content without notice to you. Bungie makes no warranty or representation regarding the availability of Online Services and reserves the right to modify or discontinue Online Services in its sole discretion without notice, including for example, ceasing an Online Service for economic reasons due to a limited number of users continuing to make use of the Online Service over time. NOTWITHSTANDING ANYTHING TO THE CONTRARY, YOU ACKNOWLEDGE AND AGREE THAT ONLINE SERVICES MAY BE TERMINATED IN WHOLE OR IN PART AT BUNGIE'S SOLE DISCRETION WITHOUT NOTICE TO YOU. IN CONNECTION WITH ONLINE SERVICES' TERMINATION, YOUR ABILITY TO ACCESS, USE AND PLAY THE PROGRAM MAY BE TERMINATED IN ITS ENTIRETY, AND ANY AND ALL LIVE CONTENT LICENSED TO YOU MAY BE TERMINATED. YOU ASSUME ANY AND ALL RISK OF LOSS ASSOCIATED WITH THE TERMINATION OF ONLINE SERVICES AND ANY LOSS OF LIVE CONTENT OR OTHERWISE.

For residents outside North America: Subject to the next sentence, Bungie does not guarantee that any Online Services or Live Content will be available or error-free at all times or at any given time. Bungie warrants that the Program, in addition to any Live Content which has been paid-for with real money, will substantially comply with the description provided by it at the point of purchase and be of satisfactory quality (in addition any related services provided through them will be provided with reasonable care and skill). Bungie may change and update Online Services or Live Content without notice to you (provided always that any such changes do not result in material degradation in the functionality of the Program or any Live Content which has been paid-for with real money). Bungie makes no warranty or representation regarding the availability of Online Services and/or Live Content which are free (i.e. not paid-for with real money) and each reserve the right to modify or discontinue them in its sole discretion without notice to you, including for example, for economic reasons due to a limited number of users continuing to make use of them over time. Bungie is not liable or responsible for any failure to perform, or delay in performance of, any of its obligations that is caused by events outside its reasonable control. If such circumstances result in material degradation in the functionality of the Program or Live Content then your obligation to make any payment to download, use or access them will be suspended for the duration of such period. Bungie is entitled to modify or discontinue Online Services and/or Live Content which are paid-for with real money in its sole discretion upon reasonable notice to you. The warranty for such Online Services and/or Live Content is provided in accordance with your statutory rights as a consumer which will always prevail.

For residents in North America-- BINDING ARBITRATION AND CLASS ACTION WAIVER:

READ THIS SECTION CAREFULLY. IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.

These BINDING ARBITRATION AND CLASS ACTION WAIVER provisions apply to you if you are domiciled in and/or acquired and use the Program in the United States. These provisions may also apply to you if you are domiciled in and/or acquired and use the Program from outside the United States. See JURISDICTION AND APPLICABLE LAW below for details.

Either party may initiate binding arbitration as the sole means to formally resolve claims, subject to the terms set forth below. Specifically, all claims arising out of or relating to this Agreement (including its interpretation, formation, performance and breach), the parties' relationship with each other and/or your use of the Program shall be finally settled by binding arbitration administered by JAMS in accordance with the provisions of its Comprehensive Arbitration Rules or Streamlined Arbitrations Rules, as appropriate, excluding any rules or procedures governing or permitting class actions. This arbitration provision is made pursuant to a transaction involving interstate commerce, and the Federal Arbitration Act (the "FAA") shall apply to the interpretation, applicability, enforceability and formation of this Agreement notwithstanding any other choice of law provision contained in this Agreement. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the



The JAMS Rules governing the arbitration may be accessed at <http://www.jamsadr.com/> or by calling JAMS at (800) 352-5267. Your arbitration fees and your share of arbitrator compensation shall be governed by the JAMS Comprehensive Arbitration Rules and, to the extent applicable, the Consumer Minimum Standards, including the then-current limit on arbitration filing fees. To the extent the filing fee for the arbitration exceeds the cost of filing a lawsuit, Bungie will pay the additional cost. The parties understand that, absent this mandatory provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

Location: If you are a resident of the United States, arbitration will take place at any reasonable location within the United States convenient for you. For residents outside the United States, arbitration shall be initiated in King County, Washington, and you agree to submit to the personal jurisdiction of any federal or state court in King County, Washington, in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.

Class Action Waiver: The parties further agree that any arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. YOU, ON THE ONE HAND, AND BUNGIE, ON THE OTHER HAND, AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR THEIR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

Exception - Litigation of Intellectual Property and Small Claims Court Claims: Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring an action in state or federal court that only asserts claims for patent infringement or invalidity, copyright infringement, moral rights violations, trademark infringement, and/or trade secret misappropriation, but not, for clarity, claims related to the license granted to you for the Program under this Agreement. Either party may also seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction.

30 Day Right to Opt Out: You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth in the "Binding Arbitration," "Location," and "Class Action Waiver" paragraphs above by sending written notice of your decision to opt-out to the following address: Bungie, Inc., 550 106th Ave NE #207, Bellevue, Washington 98004, Attn: Legal. The notice must be sent within 30 days of purchasing the Program (or if no purchase was made, then within 30 days of the date on which you first access or use the Program and agree to these terms); otherwise you shall be bound to arbitrate disputes in accordance with the terms of those paragraphs. If you opt-out of these arbitration provisions, Bungie also will not be bound by them.

Changes to this Section: Bungie will provide 60-days' notice of any changes to these sections regarding "BINDING ARBITRATION" and "CLASS ACTION WAIVER." Changes will become effective on the 60th day and will apply prospectively only to any claims arising after the 60th day.

MISCELLANEOUS: This Agreement is the complete agreement concerning this license between the parties and supersedes all prior agreements and representations between them. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and the remaining provisions of this Agreement shall not be affected. To the extent permitted by applicable law: (i) this Agreement shall be construed under Washington law as such law is applied to agreements between Washington



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EXHIBIT B

Limited Software License Agreement (Last updated March 6, 2020)

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PATCHES AND UPDATES: Bungie may deploy or provide patches, updates, and modifications to the Program that must be installed for you to continue to use the Program. Bungie may update the Program remotely without notifying you, and you hereby grant to Bungie consent to deploy and apply such patches, updates, and modifications.

LIMITED WARRANTY: Bungie warrants to the original consumer purchaser of this Program that the physical media on which this Program is stored and any physical accessories (together the “Goods”) will be free from defects in material and workmanship for 90 days from the date of purchase. If the Goods are found defective within 90 days of original purchase, Bungie agrees to replace, free of charge, any such defective Goods within such period, upon its receipt of the Program (postage paid, with proof of the date of purchase) so long as the Goods are still being manufactured by Bungie. If the Goods are no longer available, Bungie retains the right to substitute similar goods of equal or greater value. This warranty is limited to the Goods, as originally provided by Bungie, and is not applicable to normal wear and tear. This warranty shall not be applicable, and shall be void, if the defect has arisen through abuse, mistreatment, or neglect. Any implied warranties prescribed by statute are expressly limited to the 90-day period described above. EXCEPT AS SET FORTH HEREIN, THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

For customers in EU and other countries: This warranty is provided without prejudice to your statutory rights as a consumer which will always prevail. Bungie will only be responsible for any loss or damage you suffer that is a foreseeable result of the breach of this Agreement by Bungie or its negligence. Nothing in this Agreement shall limit or exclude our liability for death or personal injury resulting from negligence, fraudulent misrepresentation; or any other liability that cannot be excluded or limited by English law. This section shall prevail over all other parts of this Agreement.

LIMITATION ON DAMAGES: IN NO EVENT WILL BUNGIE BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM POSSESSION, USE, OR MALFUNCTION OF THE PROGRAM, INCLUDING DAMAGES TO PROPERTY, LOSS OF GOODWILL, COMPUTER FAILURE OR MALFUNCTION AND, TO THE EXTENT PERMITTED BY LAW, DAMAGES FOR PERSONAL INJURIES, EVEN IF BUNGIE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BUNGIE’S LIABILITY SHALL NOT EXCEED THE ACTUAL PRICE PAID FOR THE LICENSE TO USE THIS PROGRAM. SOME STATES/COUNTRIES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS AND/OR THE EXCLUSION OR LIMITATION OF DAMAGES, SO THE ABOVE LIMITATIONS AND/OR EXCLUSIONS MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

TERMINATION: Without prejudice to any other rights of Bungie, this Agreement will terminate automatically if you fail to comply with its terms and conditions. In such event, you must destroy all copies of this Program and all of its component parts. You may also terminate the Agreement at any time by permanently deleting any installation of the Program, and destroying all copies of the Program in your possession or control. Bungie

may terminate this Agreement at any time for any reason or no reason. In such event, you must destroy all copies of the Program and all of its component parts. The License Limitations, limitation on damages, limited warranty, indemnity, and miscellaneous provisions shall survive termination of this Agreement.

U.S. GOVERNMENT RESTRICTED RIGHTS: The Program has been developed entirely at private expense and are provided as "Commercial Computer Software" or "restricted computer software." Use, duplication or disclosure by the U.S. Government or a U.S. Government subcontractor is subject to the restrictions set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clauses in DFARS 252.227-7013 or as set forth in subparagraph (c)(1) and (2) of the Commercial Computer Software Restricted Rights clauses at FAR 52.227-19, as applicable. The Contractor/Manufacturer is Bungie, Inc., 550 106th Ave NE #207, Bellevue, Washington 98004.

INJUNCTION: Because Bungie would be irreparably damaged if the terms of this Agreement were not specifically enforced, you agree that Bungie shall be entitled, without bond, other security, or proof of damages, to appropriate equitable remedies with respect to breaches of this Agreement, in addition to such other remedies as Bungie may otherwise have under applicable laws.

INDEMNITY: You agree to indemnify, defend, and hold Bungie, its partners, affiliates, licensors, contractors, officers, directors, employees, and agents harmless from all damages, losses and expenses arising directly or indirectly from your breach of this Agreement and/or your acts and omissions in using the Program pursuant to the terms of this Agreement.

CHANGES TO THE AGREEMENT: Except for the sections regarding "BINDING ARBITRATION" and "CLASS ACTION WAIVER" below, Bungie reserves the right, at its sole discretion, to change, modify, add to, supplement or delete any of the terms and conditions of this Agreement, at any time and by any means, including, without limitation, (1) by posting the modifications to <http://bungie.net/sla>; and/or (2) by requiring you to "click to accept" when Bungie upgrades or patches the Program, and your continued use of the Program constitutes your acceptance of the modifications. The changes to the Agreement will be effective upon prior notice as follows: Bungie will post the revised version of this Agreement on its website, may include the terms with a patch or update and require acceptance as part of the installation process, or may provide such other notice as Bungie may elect in its sole discretion. If any future changes to this Agreement are unacceptable to you or cause you to no longer be in compliance with this Agreement, you may terminate this Agreement and receive a refund in accordance with this Agreement. Your installation and use of any of Bungie's updates, patches or modifications to the Program or your continued use of the Program following notice of changes to this Agreement will demonstrate your

acceptance of any and all such changes. If any future modifications are implemented as a “click to accept” agreement, you may not be able to continue using the Program unless you affirmatively accept the modified Agreement.

LIVE CONTENT: “Live Content” consists of content provided to Program users (e.g., unlockable content, gear, live events, activities, destinations, accounts, stats, virtual assets, virtual currencies, codes, and achievements) in connection with use of the Program. While the Program may allow you to “earn”, “buy”, or “purchase” Live Content within or in connection with gameplay, you do not in fact own or have any property interest in the Live Content. Unless otherwise specified in writing, any Live Content that you receive is licensed to you as set forth herein, and you shall have no ownership right thereto. Unless specifically permitted by Bungie, you may not, sell, lend, rent, trade, or otherwise transfer any Live Content. Live Content may be altered, removed, deleted, or discontinued by Bungie at any time (e.g., upon termination of this Agreement and/or cessation of online support for the Program), even if you have not “used” or “consumed” the Live Content prior to alteration, removal, deletion, or discontinuation. Some Live Content, including without limitation, activities, maps, and gear, may be made available to players for only a limited time. Live Content has no monetary value and does not constitute property of any type.

Without limiting the above, Live Content may include virtual coins, points or other virtual currencies (“Virtual Currency”). By purchasing or otherwise acquiring Virtual Currency, you obtain a limited license (which is revocable by Bungie at any time unless otherwise required by applicable laws) to access and select from other Live Content. Virtual Currency has no monetary value and does not constitute currency or property of any type. Virtual Currency may be redeemed for other Live Content only, if at all. Virtual Currency cannot be sold or transferred, and cannot be exchanged for cash or for any other goods and services, except for other Live Content, where applicable. Subject to applicable local law, Virtual Currency is non-refundable. You are not entitled to a refund or any other compensation such as Live Content for any unused Virtual Currency and unused Virtual Currency is non-exchangeable. There may be Live Content (should you choose to purchase it) which will require you to make a payment with real money, the amount of which will be set out in the Program. Live Content purchases are non-refundable and you acknowledge that this is the case and that you will have no right to change your mind and cancel (sometimes known as a ‘cooling off’ right) once your purchase is complete. Depending on your platform, any Live Content purchased, may be purchased from your platform provider and such purchase will be subject to your platform provider’s Terms of Service and User Agreement. Please check usage rights for each purchase as these may differ from item to item. Unless otherwise shown, content available in any game store has the same age rating as the game.

For SIEA users: When accessing the Program on a Sony PlayStation® product, purchase and use of items are subject to Sony’s Network Terms of Service and User Agreement. This

online service has been sublicensed to you by Sony Interactive Entertainment America.

For SIEE users: When accessing the Program on a Sony PlayStation® product, any content purchased in an in-game store will be purchased from Sony Interactive Entertainment Network Europe Limited (“SIENE”) and be subject to PlayStation™Network Terms of Service and User Agreement which is available on the PlayStation®Store. Please check usage rights for each purchase as these may differ from item to item. Unless otherwise shown, content available in any in-game store has the same age rating as the game.

AVAILABILITY:

For residents in North America: Bungie does not guarantee that any online services, play or features associated with the Program (collectively, “Online Services”) or Live Content will be available at all times or at any given time or that Bungie will continue to offer Online Services or Live Content for any particular length of time. Bungie may change and update Online Services or Live Content without notice to you. Bungie makes no warranty or representation regarding the availability of Online Services and reserves the right to modify or discontinue Online Services in its sole discretion without notice, including for example, ceasing an Online Service for economic reasons due to a limited number of users continuing to make use of the Online Service over time. NOTWITHSTANDING ANYTHING TO THE CONTRARY, YOU ACKNOWLEDGE AND AGREE THAT ONLINE SERVICES MAY BE TERMINATED IN WHOLE OR IN PART AT BUNGIE’S SOLE DISCRETION WITHOUT NOTICE TO YOU. IN CONNECTION WITH ONLINE SERVICES’ TERMINATION, YOUR ABILITY TO ACCESS, USE AND PLAY THE PROGRAM MAY BE TERMINATED IN ITS ENTIRETY, AND ANY AND ALL LIVE CONTENT LICENSED TO YOU MAY BE TERMINATED. YOU ASSUME ANY AND ALL RISK OF LOSS ASSOCIATED WITH THE TERMINATION OF ONLINE SERVICES AND ANY LOSS OF LIVE CONTENT OR OTHERWISE.

For residents outside North America: Subject to the next sentence, Bungie does not guarantee that any Online Services or Live Content will be available or error-free at all times or at any given time. Bungie warrants that the Program, in addition to any Live Content which has been paid-for with real money, will substantially comply with the description provided by it at the point of purchase and be of satisfactory quality (in addition any related services provided through them will be provided with reasonable care and skill). Bungie may change and update Online Services or Live Content without notice to you (provided always that any such changes do not result in material degradation in the functionality of the Program or any Live Content which has been paid-for with real money). Bungie makes no warranty or representation regarding the availability of Online Services and/or Live Content which are free (i.e. not paid-for with real money) and each reserve the right to modify or

discontinue them in its sole discretion without notice to you, including for example, for economic reasons due to a limited number of users continuing to make use of them over time. Bungie is not liable or responsible for any failure to perform, or delay in performance of, any of its obligations that is caused by events outside its reasonable control. If such circumstances result in material degradation in the functionality of the Program or Live Content then your obligation to make any payment to download, use or access them will be suspended for the duration of such period. Bungie is entitled to modify or discontinue Online Services and/or Live Content which are paid-for with real money in its sole discretion upon reasonable notice to you. The warranty for such Online Services and/or Live Content is provided in accordance with your statutory rights as a consumer which will always prevail. For residents in North America-- BINDING ARBITRATION AND CLASS ACTION WAIVER:

READ THIS SECTION CAREFULLY. IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.

These BINDING ARBITRATION AND CLASS ACTION WAIVER provisions apply to you if you are domiciled in and/or acquired and use the Program in the United States. These provisions may also apply to you if you are domiciled in and/or acquired and use the Program from outside the United States. See JURISDICTION AND APPLICABLE LAW below for details.

Either party may initiate binding arbitration as the sole means to formally resolve claims, subject to the terms set forth below. Specifically, all claims arising out of or relating to this Agreement (including its interpretation, formation, performance and breach), the parties' relationship with each other and/or your use of the Program shall be finally settled by binding arbitration administered by JAMS in accordance with the provisions of its Comprehensive Arbitration Rules or Streamlined Arbitrations Rules, as appropriate, excluding any rules or procedures governing or permitting class actions. This arbitration provision is made pursuant to a transaction involving interstate commerce, and the Federal Arbitration Act (the "FAA") shall apply to the interpretation, applicability, enforceability and formation of this Agreement notwithstanding any other choice of law provision contained in this Agreement. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of this Agreement, including without limitation any claim that all or any part of this Agreement is void or voidable, or whether a claim is subject to arbitration. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator's award shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction.

The JAMS Rules governing the arbitration may be accessed at <http://www.jamsadr.com/> or by calling JAMS at (800) 352-5267. Your arbitration fees and your share of arbitrator compensation shall be governed by the JAMS Comprehensive Arbitration Rules and, to the extent applicable, the Consumer Minimum Standards, including the then-current limit on arbitration filing fees. To the extent the filing fee for the arbitration exceeds the cost of filing a lawsuit, Bungie will pay the additional cost. The parties understand that, absent this mandatory provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

Location: If you are a resident of the United States, arbitration will take place at any reasonable location within the United States convenient for you. For residents outside the United States, arbitration shall be initiated in King County, Washington, and you agree to submit to the personal jurisdiction of any federal or state court in King County, Washington, in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.

Class Action Waiver: The parties further agree that any arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. YOU, ON THE ONE HAND, AND BUNGIE, ON THE OTHER HAND, AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR THEIR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

Exception - Litigation of Intellectual Property and Small Claims Court Claims:

Notwithstanding the parties' decision to resolve all disputes through arbitration, either party may bring an action in state or federal court that only asserts claims for patent infringement or invalidity, copyright infringement, moral rights violations, trademark infringement, and/or trade secret misappropriation, but not, for clarity, claims related to the license granted to you for the Program under this Agreement. Either party may also seek relief in a small claims court for disputes or claims within the scope of that court's jurisdiction.

30 Day Right to Opt Out: You have the right to opt-out and not be bound by the arbitration and class action waiver provisions set forth in the "Binding Arbitration," "Location," and "Class Action Waiver" paragraphs above by sending written notice of your decision to opt-

out to the following address: Bungie, Inc., 550 106th Ave NE #207, Bellevue, Washington 98004, Attn: Legal. The notice must be sent within 30 days of purchasing the Program (or if no purchase was made, then within 30 days of the date on which you first access or use the Program and agree to these terms); otherwise you shall be bound to arbitrate disputes in accordance with the terms of those paragraphs. If you opt-out of these arbitration provisions, Bungie also will not be bound by them.

Changes to this Section: Bungie will provide 60-days' notice of any changes to these sections regarding "BINDING ARBITRATION" and "CLASS ACTION WAIVER." Changes will become effective on the 60th day and will apply prospectively only to any claims arising after the 60th day.

MISCELLANEOUS: This Agreement is the complete agreement concerning this license between the parties and supersedes all prior agreements and representations between them. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and the remaining provisions of this Agreement shall not be affected. To the extent permitted by applicable law: (i) this Agreement shall be construed under Washington law as such law is applied to agreements between Washington residents entered into and to be performed within Washington, except as governed by federal law, and (ii) you consent to the exclusive jurisdiction of the state and federal courts in King County, Washington.